

Board of Chiropractic Examiners

2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
www.chiro.ca.gov

**NOTICE OF PUBLIC MEETING**

**December 2, 2010
10:00 a.m.
Holiday Inn LAX
9901 La Cienega Blvd.
Los Angeles, CA 90045
(310) 649-5151**

AGENDA

1. **OPEN SESSION – Call to Order & Establishment of a Quorum**
Frederick Lerner, D.C. Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.
2. **Chair's Report**
3. **Approval of Minutes**
September 23, 2010 Board Meeting
4. **Public Comment**
5. **Board Member Training on the Bagley-Keene Open Meeting Act and Other Relevant Laws**
6. **Executive Officer's Report**
 - A. Administration
 - B. Budget
 - C. Licensing
 - D. Enforcement
7. **Ratification of Approved License Applications**
8. **Ratification of Approved Continuing Education Providers**
9. **Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing**
10. **Recommendation to Waive Two Year Requirement to Restore a Cancelled License**
11. **Continuing Education Committee Meeting Update** – Board may take action on any item on the attached Continuing Education Committee meeting agenda.
12. **Enforcement Committee Meeting Update** – Board may take action on any item on the attached Enforcement Committee meeting agenda.

- 13. Proposed Regulations**
 - A. Continuing Education
 - B. Fingerprint Submissions
 - C. Proposed Regulations Based on Provisions of SB 1111
 - D. Informed Consent
- 14. Chiropractors Performing Student Athletic Physicals and Serving as Team Doctors**
- 15. Post-Operative Rehabilitation Performed by Chiropractors**
- 16. Department of Industrial Relations, Division of Workers Compensation – Update on Recognition of Chiropractic Specialties**
- 17. Proposed Board Meeting Schedule for 2011**
- 18. Public Comment**
- 19. Future Agenda Items**
- 20. Hearings Re: Petition for Reinstatement of Revoked License**
 - A. Kevin Choe
 - B. Robert Montoya
 - C. Won-Joon Son
- 21. Closed Session**
 - A. Deliberation on Petitioner Hearings and Disciplinary Decisions Pursuant to California Government Code Section 11126(c)(3)
 - B. Pursuant to California Government Code Section 11126(e)
 - 1) Catherine Hayes v. Board of Chiropractic Examiners
Sacramento County Superior Court, Case No. 34-2008-0000647
 - 2) Board of Chiropractic Examiners v. Carole M. Arbuckle
Sacramento County Superior Court, Case No 03AS00948
- 22. OPEN SESSION: Announcements Regarding Closed Session**
- 23. Adjournment**

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or e-mail marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES****September 23, 2010****State Capitol****Assembly Room 126****Sacramento, CA 95814****Board Members Present**

Frederick Lerner, D.C., Chair
Hugh Lubkin, D.C., Vice Chair
Francesco Columbu, D.C., Secretary
Jeffrey Steinhardt, D.C.
Richard Tyler, D.C.

Staff Present

Robert Puleo, Interim Executive Officer
LaVonne Powell, Senior Staff Counsel
Linda Shaw, Staff Services Manager
Sandra Walker, Staff Services Manager
Dixie Van Allen, Associate Governmental Program Analyst
Beckie Rust, Associate Governmental Program Analyst
Christina Bell, Associate Governmental Program Analyst
Ray Delaney, Management Services Technician
Valerie James, Office Technician

Call to Order

Dr. Lerner called the meeting to order at 10:04 a.m.

Roll Call

Dr. Columbu called the roll. All members were present except Jeffrey Steinhardt, D.C., who arrived shortly after roll call.

Chair's Report

Dr. Lerner gave the Chair's Report.

Approval of Minutes

July 29, 2010 Board Meeting

MOTION: DR. TYLER MOVED TO APPROVE THE MINUTES

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

Discussion

None

Public Comment

None

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell commented that the Board Members are following the rules of the Open Meetings Act extremely well.

Executive Officer's Report

Mr. Puleo gave the Executive Officer's Report. The topics were Administration, Budget, Licensing, and Enforcement.

Ratification of Approved License Applications

MOTION: DR. LUBKIN MOVED TO RATIFY THE APPROVED LICENSE APPLICATIONS

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

The Board ratified the attached list of approved license applications incorporated herein (Attachment A).

Discussion

None

Ratification of Approved Continuing Education Providers

None

Discussion

None

Ratification of Denied License Applications in Which the Applicants Did Not Request a Hearing

None

Recommendation to Waive Two Year Requirement to Restore a Cancelled License

MOTION: DR. LUBKIN MOVED TO WAIVE TWO YEAR REQUIREMENT TO RESTORE A CANCELLED LICENSE

SECOND: DR. TYLER SECONDED THE MOTION

VOTE: 4-0

MOTION CARRIED

The Board ratified the attached list of approved cancellation restoration applicants incorporated herein (Attachment B).

Board Website Redesign

Mr. Puleo introduced guest speaker, Theresa Rapozo, from Office of Technology Services, Web Consulting Unit. Ms. Rapozo discussed the Board's website statistics and current site description. She proposed a few potential templates that were pending approval.

Legislative Update

A. AB1996 (Hill)

Mr. Puleo provided an update stating the language is now waiting to be signed.

B. Any other legislation of Interest to the Board

Mr. Puleo stated there is no other significant pending legislation at this time.

Proposed Regulations

A. Continuing Education

Dr. Lerner provided an update and stated the Board looks forward to hearing new information; however, they will not be rehashing old discussion.

MOTION: DR. LERNER MOVED TO APPROVE STAFF RECOMMENDED RESPONSES TO CE REGULATION COMMENTS

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

With the staff recommended responses to comments and amendments to the draft language, staff will prepare the Final Statement of Reasons and send the completed CE regulation package to Office of Administrative Law.

Public Comment

None

B. Fingerprint Submissions

Ms. Powell stated that there was only one comment submitted regarding the matter.

MOTION: DR. TYLER MOVED TO ADOPT THE FINAL LANGUAGE FROM THE LAST 15 -DAY NOTICE AND REJECT THE ONE COMMENT RECEIVED.

SECOND: DR. LUBKIN SECONDED THE MOTION

VOTE: 5-0

MOTION CARRIED

Discussion

None

Public Comment

None

C. Draft Language for Proposed Regulations Based on Provisions of SB 1111

Dr. Lerner summarized SB1111, and briefly reviewed the proposed language

MOTION: DR. LUBKIN MOVED TO ACCEPT THE LANGUAGE
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion

Dr. Lubkin suggested adding to Section 304.5, "or foreign government" so the Board can search within any and all licensing Boards or Agencies from other Countries and States.

Dr. Lubkin suggested removing section (B) of 317.3

Dr. Lubkin suggested removing the comma after "mental illness" on the third line of section 321.1 (a).

Ms. Powell will be seeking a better definition for section 390.8.

Dr. Lubkin suggests adding "or foreign jurisdiction" to Section 390.9 subsection (a).

MOTION: DR. LUBKIN MOVED TO AMEND HIS PREVIOUS MOTION AND MOVED TO MAKE SUGGESTED CHANGES IN THE LANGUAGE FOR THE PROPOSED REGULATIONS
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion

Dr. Lubkin acknowledges the hard work put in to putting together this package.

Public Comment

None

C. Draft Language for Informed Consent

MOTION: DR. LUBKIN MOVED TO ACCEPT THE LANGUAGE
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Discussion

Dr. Lerner discussed a few concerns regarding the language and suggested some changes.

Public Comment

Dr. Davis suggested including the informed consent with patient records as mentioned in section 318.1.

Dr. Lerner suggested to remove the word "benefits" and add the word "potential" before the word "risk".

After discussion, it was suggested to remove the words "properly and adequately".

Bill Howe requested the Board hold off on any amendments to the language so others may review the new language and make any input.

Mr. Puleo stated that a 15-day comment period will be noticed for the public to comment.

MOTION: DR. LUBKIN MOVED TO AMMEND THE LANGUAGE IN SECTION 319.1 – INFORMED CONSENT
SECOND: DR. COLUMBU SECONDED THE MOTION
VOTE: 5-0
MOTION CARRIED

Public Comment
None

Department of Industrial Relations, Division of Workers Compensation – Recognition of Chiropractic Specialties
Dr. Lerner provided an update.

Ms. Powell suggested putting this item on the agenda at future Board meetings for updates.

Public Comment
Dr. Davis from ICA also states a letter has been sent to the Division of Industrial Relations regarding their proposed language.

Deborah Mattos from Southern California University of Health Sciences submitted a letter to the Board from her client which was also forwarded to the Department of Industrial Relations.

Mr. Howe supports Ms. Powell's suggestions.

Hearings re: Petition for Reinstatement of Revoked License
Administrative Law Judge Catherine Frink presided over and Deputy Attorney General Karen Denvir appeared on behalf of the people of the State of California on the following hearings.

- Joseph Scannell

Hearings re: Petition for Early Termination of Probation
Administrative Law Catherine Frink presided over and Deputy Attorney General Karen Denvir appeared on behalf of the people of the State of California on the following hearing.

- Richard Monoson
- Ramon Mendoza

Closed Session
Following oral testimonies, the Board went into closed session for deliberation and determinations of Petitioners.

Adjournment

Dr. Lerner adjourned the public meeting at 3:47 p.m.

DRAFT

Attachment A

**Approval By Ratification of Formerly Approved License Applications
July 1, 2010 – August 31, 2010**

DC#	Name (First, Middle, Last)	Date Issued
	Tomoya Harada	7/1/2010 31722
	Lora Jane Vaquero	7/2/2010 31723
	Wendy Pollock	7/7/2010 31724
	Alison Lou Adamczyk	7/8/2010 31725
	Hagop Blikian	7/8/2010 31726
	Paul Gatchalian Capulong	7/8/2010 31727
	Sean Hyunkon Kim	7/8/2010 31728
	Seongtai Yang	7/13/2010 31729
	Shafiq Ansari	7/16/2010 31730
	Lief Forrest Hands	7/16/2010 31731
	Tae Yong Kim	7/16/2010 31732
	Jacqueline Marie Behymer	7/20/2010 31733
	Kristin Barbara Hazleton	7/20/2010 31734
	Robert Alan Ehrnman	7/21/2010 31735
	Atina Jaudy	7/21/2010 31736
	Michael John Lord	7/21/2010 31737
	Eric Michael Davenport	7/28/2010 31738
	Adam David Kipp	7/28/2010 31739
	Suani Zeuri Lara	7/28/2010 31740
	Ming Li	7/28/2010 31741
	Shirohisa Otake	7/30/2010 31742
	Thomas Burton Sperry	7/30/2010 31743
	Dyba Mahmood Syed-Kalyani	7/30/2010 31744
	Erik James Van Slooten	7/30/2010 31745
	Tyler Scott Wood	7/30/2010 31746
	Michael Cole Wilson	8/3/2010 31747
	Grayr Greg Movsesyan	8/5/2010 31748
	Jeffrey Tilford Anderson	8/6/2010 31749
	Andrew David Faria	8/6/2010 31750
	Miguel Antonio Guedea	8/6/2010 31751
	Stella Makovsky	8/6/2010 31752
	Jaweed Ahmad Naweed	8/10/2010 31753
	Heather Marie Taylor	8/10/2010 31754

Nilouphar		Zahedi	8/10/2010	31755
Mark	David	Mead	8/12/2010	31756
Jerome	Hyun	Ri	8/12/2010	31757
Mary		Tran	8/12/2010	31758
Richard	Edward	Hedrick	8/12/2010	31759
Daniel	Joseph	Farkas	8/18/2010	31760
Khoa	Dang	Le	8/18/2010	31761
Christine	Teano	Lipat	8/18/2010	31762
Ryan	David	Beck	8/19/2010	31763
Mindy	Anne	Bichel	8/19/2010	31764
Ray	Owen	DiBartolomeo	8/19/2010	31765
Gina	Marie	Illia	8/19/2010	31766
Ryan	Jay	Lee	8/23/2010	31767
Stephen	Mark	Legate	8/23/2010	31768
Allen	Douglas	Stone	8/23/2010	31769
Joseph	Wilfred	Surette	8/23/2010	31770
Trisha	Marie	Wimbs	8/23/2010	31771
Tomonori		Kawai	8/24/2010	31772
Jeremy	Alexander	Steel	8/26/2010	31773
Sagarie	Shyamanthie	Seneviratne	8/31/2010	31774

Attachment B

Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License

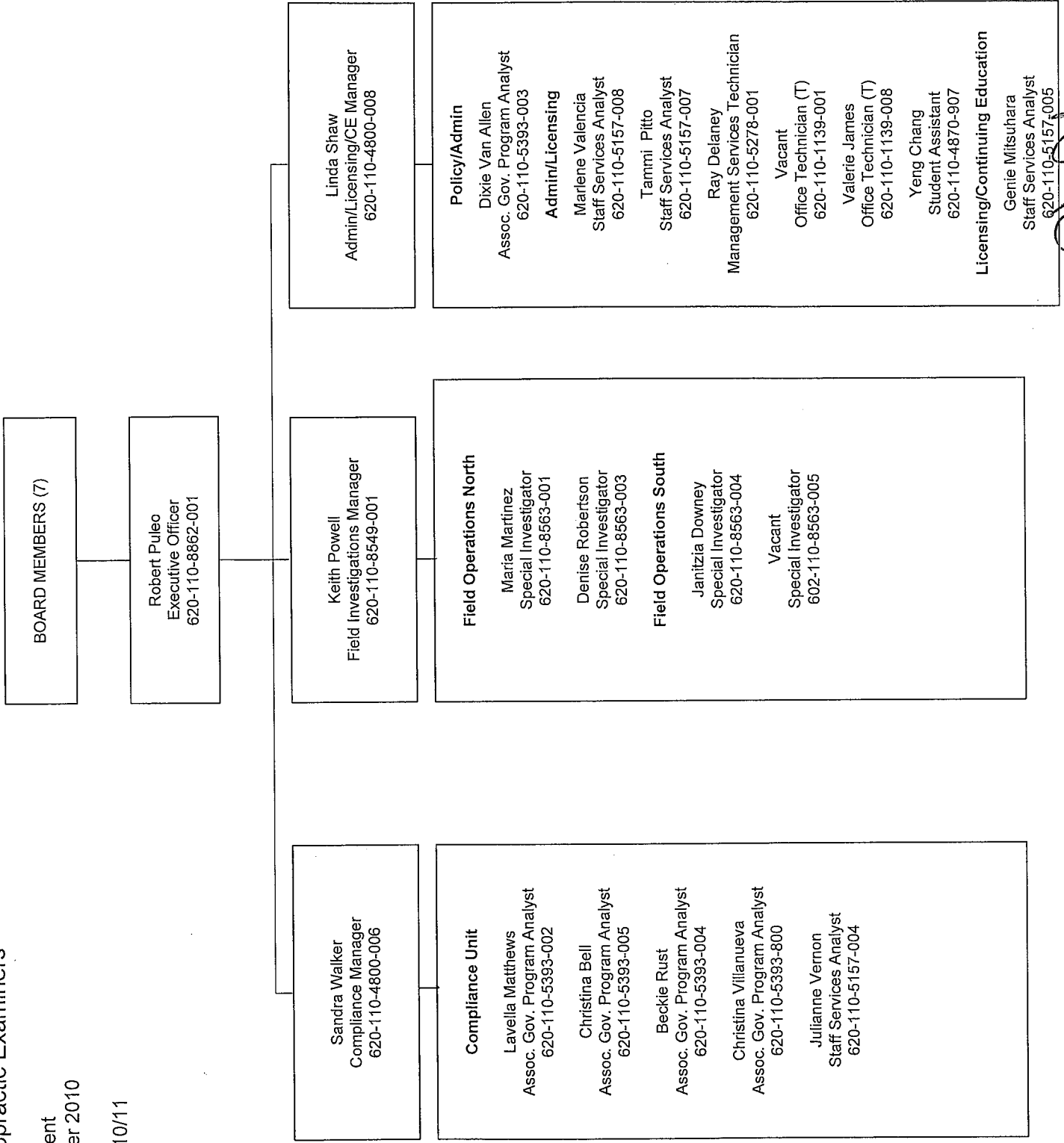
Name (First, Middle, Last)	License No.	Cancellation Date
• Lightner, Walter	21741	03/31/2010
• Mertz, Stephen A.	18291	05/10/2010
• Swinarksi, Debbie E.	21862	04/30/2009
• Thomason, Brian E.	24231	12/31/2008

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State Board of Chiropractic Examiners

Current
November 2010

FY 2010/11



Executive Officer

Rev. 9/2/2010

**BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA**

FY 2009/10 – FY 2010/11 COMPARISON

LICENSE TYPE	TOTAL LICENSES 11/1/2009	TOTAL LICENSES 11/1/2010	NET VARIANCE
CHIROPRACTOR	13,853	13,902	+49
SATELLITES	3,114	3,697	+583
CORPORATIONS	1,340	1,326	-14
REFERRALS	33	31	-2
TOTALS	18,340	18,956	+616

**APPLICATIONS RECEIVED AND PROCESSED
SEPTEMBER 1, 2010 – NOVEMBER 30, 2010**

APPLICATION TYPE	RECEIVED	APPROVED	DENIED	WITHDRAWN	PENDING
INITIAL	36	48	1	0	110
RECIPROCAL	1	1	0	0	14
RESTORATION	41	42	0	0	18
CORPORATION	13	10	0	0	23

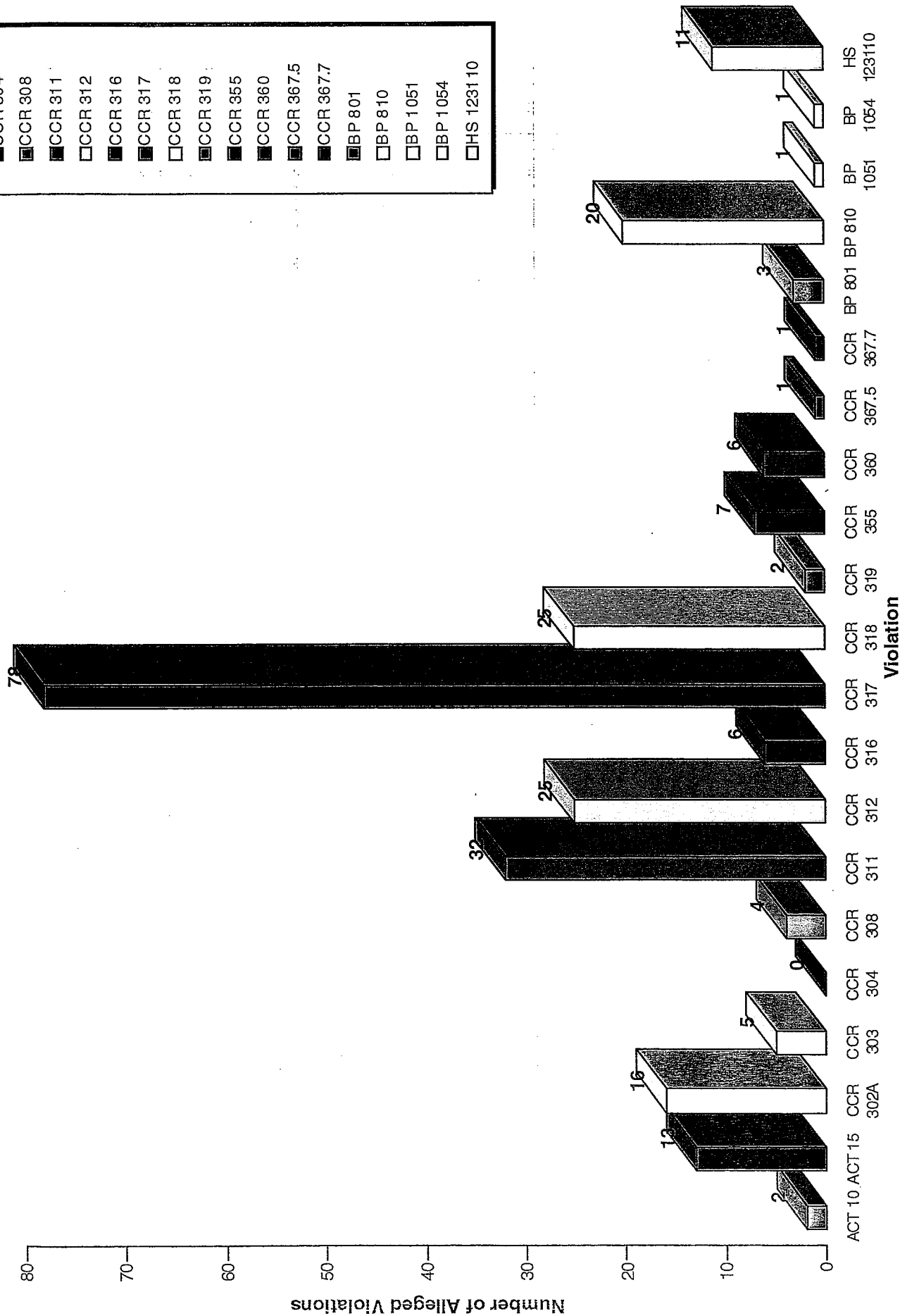
Compliance Unit Statistics

Fiscal Year	06/07	07/08	08/09	09/10	10/11*
<u>Complaints</u>					
Received	702	644	655	519	198
Pending	863	824	410	203	217
Closed with Insufficient Evidence	132	107	206	136	25
Closed with No Violation	61	78	223	129	37
Closed with Merit	202	321	275	158	46
Letter of Admonishment	n/a	n/a	n/a	5	0
Citations and Fines Issued (Total Fine Amount)	34	28	41(\$19,200)	78(\$25,700)	17 (\$5,750)
<u>Accusations</u>					
Filed	41	13	64	73	27
Pending	92	73	105	117	113
Revoked	27	8	10	18	1
Revocation Stayed: Probation	23	10	4	20	8
Revocation Stayed: Suspension and Probation	15	10	7	8	4
Suspension	1	0	0	0	0
Suspension Stayed: Probation	0	0	0	1	0
Suspension and Probation	0	0	2	0	0
Voluntary Surrender of License	4	2	2	7	4
Dismissed/Withdrawn	3	3	5	18	0
<u>Statement of Issues</u>					
Filed	11	7	3	3	1
Denied	1	0	1	0	0
Probationary License	9	7	4	7	0
Withdrawn at Applicant's Request	2	1	0	0	0
Granted	3	0	0	0	0
<u>Petition for Reconsideration</u>					
Filed	1	0	1	3	0
Granted	0	0	0	0	0
Denied	1	0	1	2	0
<u>Petition for Reinstatement of License</u>					
Filed	10	15	13	9	2
Granted	5	12	4	4	0
Denied	4	6	11	11	3
<u>Petition for Early Termination of Probation</u>					
Filed	5	6	6	6	15
Granted	4	1	6	1	0
Denied	0	1	2	2	0
<u>Petition for Modification of Probation</u>					
Filed	0	0	0	0	0
Granted	0	0	0	0	0
Denied	0	0	0	0	0
<u>Petition by Board to Revoke Probation</u>					
Filed	2	0	11	32	25
Revoked	0	0	3	7	0
<u>Probation Cases</u>					
Active	174	159	140	134	133

FISCAL YEAR 2011

July 1, 2010 - October 31, 2010
 Total Number of Complaints Opened - 198
 Total Number of Violations - 259
 (A complaint may contain multiple violations)

- ACT 10
- ACT 15
- CCR 302A
- CCR 303
- CCR 304
- CCR 308
- CCR 311
- CCR 312
- CCR 316
- CCR 317
- CCR 318
- CCR 319
- CCR 355
- CCR 360
- CCR 367.5
- CCR 367.7
- BP 801
- BP 810
- BP 1051
- BP 1054
- HS 123110



Violation Codes/Descriptions

The Chiropractic Initiative Act of California (ACT):

- 10 – Rules of Professional Conduct
- 15 – Noncompliance With and Violations of Act

California Code of Regulations (CCR):

- 302(a) – Scope of Practice
- 303 – Filing of Addresses
- 304 – Discipline by Another State
- 308 – Display of License
- 311 – Advertisements
- 312 – Illegal Practice
- 316 – Responsibility for Conduct on Premises
- 317 – Unprofessional Conduct
- 318 – Chiropractic Patient Records/Accountable Billing
- 319 – Free or Discount Services
- 355 – Renewal and Restoration
- 360 – Continuing Education Audits
- 367.5 – Application, Review of Refusal to Approve (corporations)
- 367.7 – Name of Corporation

Business and Professions Code (BP):

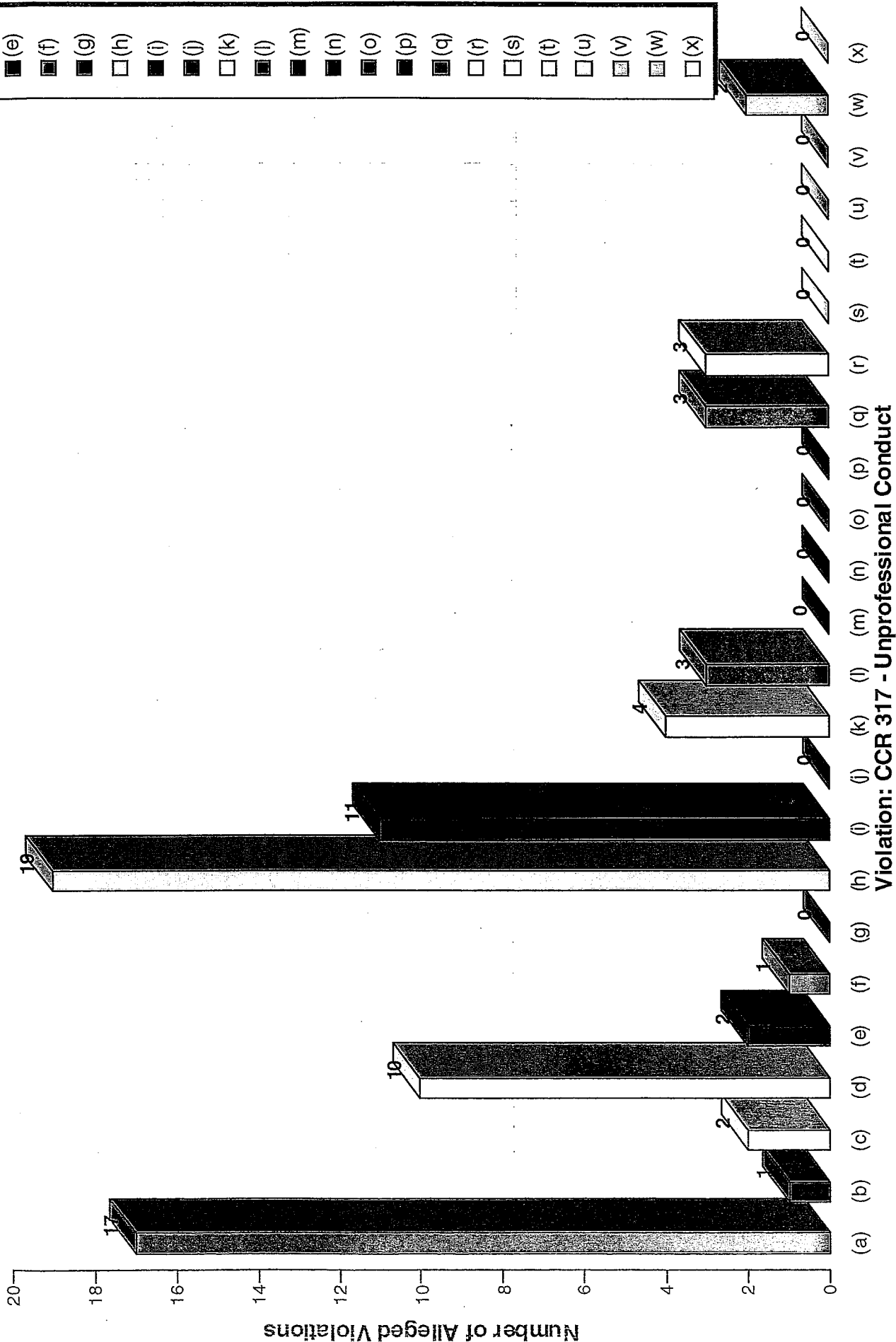
- 801 – Professional Reporting Requirements (malpractice settlements)
- 810 – Insurance Fraud
- 1051 – Apply for a Corporation with the Board
- 1054 – Name of Chiropractic Corporation

Health and Safety Code (HS):

- 123110 – Patient Access to Health Records

FISCAL YEAR 2011

July 1, 2010 - October 31, 2010
 Total Number of Complaints Opened Alleging Violation of CCR 317 - 78
 (A complaint may contain multiple violations)



Violation Codes/Descriptions

California Code of Regulations (CCR) Section 317 – Unprofessional Conduct:

- (a) Gross Negligence
- (b) Repeated Negligent Acts
- (c) Incompetence
- (d) Excessive Treatment
- (e) Conduct Endangering Public
- (f) Administering to Oneself Drugs/Alcohol
- (g) Conviction of a Crime Related to Chiropractic Duties
- (h) Conviction of a Crime Involving Moral Turpitude/Physical Violence/etc.
- (i) Conviction of a Crime Involving Drugs or Alcohol
- (j) Dispensing Narcotics/Dangerous Drugs/etc.
- (k) Moral Turpitude/Corruption/etc
- (l) False Representation
- (m) Violation of the ACT/Regulations
- (n) False Statement Given in Connection with an Application for Licensure
- (o) Impersonating an Applicant
- (p) Illegal Advertising related to Violations of Section 17500 BP
- (q) Fraud/Misrepresentation
- (r) Unauthorized Disclosure of Patient Records
- (s) Employment/Use of Cappers or Steerers
- (t) Offer/Receive Compensation for Referral
- (u) Participate in an Illegal Referral Service
- (v) Waiving Deductible or Co-Pay
- (w) Fail to Refer Patient to Physician/Surgeon/etc.
- (x) Offer or Substitution of Spinal Manipulation for Vaccination

MEMORANDUM



Date: November 15, 2010

To: Board Members

From: Robert Puleo
Interim Executive Officer

A handwritten signature in black ink, appearing to be 'RP' with a stylized flourish.

Subject: Ratification of Formerly Approved Doctors of Chiropractic for Licensure

This is to request that the Board ratify the attached list of individuals as Doctors of Chiropractic at the December 2, 2010, public meeting.

Between September 1, 2010 and October 31, 2010, staff reviewed and confirmed that the applicants met all statutory and regulatory requirements.

If you have any questions or concerns, please contact me at your earliest opportunity.

Approval By Ratification of Formerly Approved License Applications
September 1, 2010 – October 31, 2010

Name (First, Middle, Last)			Date Issued	DC#
Joshua		Michael	9/2/2010	31775
Caroline	Anne	Mohlstrom	9/2/2010	31776
Brent	Lesley	Wise	9/8/2010	31777
Reanna	L	Plancich	9/16/2010	31778
Nesrein		Sweidan	9/16/2010	31779
Dino	Dario	DelMastro	9/20/2010	31780
Charlene	Marie	Eisenman	9/20/2010	31781
Douglas	Earl	Falke	9/20/2010	31782
Janelle	Sharice	Gertsch	9/20/2010	31783
John	David	Gonzales	9/20/2010	31784
Haley	Shaun	Harvey	9/20/2010	31785
Cierra	Dawn	Hoffman	9/20/2010	31786
Peter		Hong	9/20/2010	31787
Soo	Jin	Kim	9/20/2010	31788
Mary		Chan	9/20/2010	31789
Lindy	Lee	Vaughn	9/23/2010	31790
Angela	Marie	Williams	9/23/2010	31791
David		Rosario	9/30/2010	31792
Krista	Lynn	Rainwaters	9/30/2010	31793
Goli	Askari	Ranekouhi	9/30/2010	31794
Filiberto	Sebastian	Troy	9/30/2010	31795
Ricardo		Valdivia	9/30/2010	31796
Robin	Beth Stephanie	Zobitz	9/30/2010	31797
Thomas	Daniel	Franz	10/1/2010	31798
Justin	Samuel	Letzt	10/1/2010	31799
Bryce		Matthews	10/1/2010	31800
Armene	Marie	Lamson	10/6/2010	31801
William	Joseph	Moreau	10/6/2010	31802
Bianca		Chammaa	10/12/2010	31803
Gary	Chhourn	Yang	10/12/2010	31804
Anne	Vu	Nguyen	10/12/2010	31805
Melinda	Christine	Hendrick	10/21/2010	31806
Herbert	Roy	Kellins	10/21/2010	31807
Aaron	Jacob	Stauber	10/21/2010	31808
Susan	Jin Wen	Wang	10/21/2010	31809

Kintaro	Yukihisa	Oku	10/28/2010	31810
Chie		Uekihara	10/28/2010	31811
Samuel	Oswald	Tarrant III	10/28/2010	31812
Xuan-My	Nguyen	Tran	10/28/2010	31813
Nimira	Samir	Alibhoy	10/28/2010	31814
Preston	Sylvester	Edwards	10/28/2010	31815
Sue	Hoa	Lim	10/28/2010	31816
Matthew	Gabriel	McCutcheon	10/28/2010	31817
Natasha	Tanya	Balbas	10/28/2010	31818
Jennifer	Marguerite	Carauddo	10/28/2010	31819
Tom	Sunghoon	Chung	10/28/2010	31820
Enrique		Guerena	10/28/2010	31821
Philip	George	Pritting, Jr.	10/28/2010	31822
Heidi	Louise	Smith	10/28/2010	31823
Jacob	Martin	Stuebs	10/28/2010	31824
Brett	Matthew	Vowles	10/28/2010	31825
James	Elliot	Weiss	10/28/2010	31826
Janis	Ruth	Prout	10/29/2010	31827
David	Benjamin	Sundy	10/29/2010	31828

MEMORANDUM



Date: November 15, 2010

To: Robert Puleo, *RP*
Executive Officer

From: Genie Mitsuhara
Continuing Education Analyst

Subject: **Ratification of Formerly Approved Continuing Education Providers**

This confirms that the Board of Chiropractic Examiners did not approve any Continuing Education Providers during this reporting period

If you have any questions or concerns, please contact me at your earliest opportunity.

MEMORANDUM



Date: November 18, 2010

To: **Board Members**

From: Robert Puleo
Executive Officer

RP

Subject: **Ratification of Denied License Applications of Doctors of Chiropractic**

The Board of Chiropractic Examiners (Board) denies licensure to applicants who do not meet all statutory and regulatory requirements for a chiropractic license in California. An applicant has 60-days after the denial is issued to appeal the decision. If the applicant does not submit an appeal to the Board, the denial is upheld.

Between September 1, 2010 and October 31, 2010, staff reviewed and confirmed that applicants met all statutory and regulatory requirements for licensure. One denial of licensure was issued for this timeframe, there is no ratification necessary.

If you have any questions or concerns, please contact me at your earliest opportunity.

MEMORANDUM



Date: November 19, 2010

To: Board Members

From: Robert Puleo
Executive Officer

A handwritten signature in black ink, appearing to be 'RP' or 'Puleo', written over the printed name.

Subject: Recommendation to Waive Two Year Requirement on Restoration of a Cancelled License – Chiropractic Initiative Act, Section 10(c)

This is to recommend that the Board waive the two year restoration requirement of a cancelled license for the individuals named on the attached list at the December 2, 2010, public meeting.

Staff reviewed and confirmed that the applicants met all other regulatory requirements for restoration including sufficient continuing education hours.

If you have any questions or concerns, please contact me at your earliest opportunity.

Recommendation to Waive Two Year Requirement
on Restoration of a Cancelled License

Name (Last, First MI)	License No.	Cancellation Date
Cogan, William	23228	2/28/2010

Board of Chiropractic Examiners

2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
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NOTICE OF PUBLIC MEETING
CONTINUING EDUCATION COMMITTEE

October 21, 2010

10:00 a.m.

**2525 Natomas Park Drive, Suite 120
Sacramento, CA 95833**

AGENDA

- 1. CALL TO ORDER**
- 2. Approval of Minutes**
July 9, 2009
- 3. Strategies for Implementation of Prospective Continuing Education (CE) Regulations**
- 4. Transition of CE Regulations from 12 to 24 Hours of Board Approved CE Requirement**
- 5. PUBLIC COMMENT**
- 6. FUTURE AGENDA ITEMS**
- 7. ADJOURNMENT**

CONTINUING EDUCATION COMMITTEE

Hugh Lubkin, D.C., Chair
Richard Tyler, D.C.

The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting is accessible to the individuals with physical disabilities. If a person needs disability-related accommodations or modifications in order to participate in the meeting may make a request by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or email marlene.valencia@chiro.ca.gov or send a written request to the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

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NOTICE OF PUBLIC MEETING – CORRECTED COPY
ENFORCEMENT COMMITTEE

December 2, 2010

9:00 a.m.

**Holiday Inn LAX
9901 La Cienega Blvd.
Los Angeles, CA 90045
(310) 649-5151**

AGENDA

- 1. CALL TO ORDER**
- 2. Approval of Minutes**
July 8, 2010
- 3. Advertising Enforcement Issues**
California Code of Regulations 311, Business and Professions Code 17500, Business and Professions Code 651
- 4. Scope of Chiropractic Care, Limitations, and Exclusive Treatment**
California Code of Regulations 302
- 5. Chiropractic Patient Records**
California Code of Regulations 318
- 6. Updating Existing Regulations**
- 7. Enforcement Oversight – Auditing of Enforcement Program**
- 8. PUBLIC COMMENT**
- 9. FUTURE AGENDA ITEMS**
- 10. ADJOURNMENT**

ENFORCEMENT COMMITTEE

Hugh Lubkin, D.C., Chair
Francesco Columbu, D.C.
Frederick Lerner, D.C.

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Board of Chiropractic Examiners
Proposed Regulatory Language for
Informed Consent
California Code of Regulations, Title 16, Division 4, Article 2

§ 319.1. Informed Consent.

(a) A licensed doctor of chiropractic shall inform each patient of the potential risks of proposed care. The chiropractor shall obtain the patient's verbal and written informed consent prior to initiating clinical care. The signed written consent shall become part of the patient's record.

(b) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Sections 1000-4(b), and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii).

Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii).



California Interscholastic Federation

Marie M. Ishida, Executive Director
STATE OFFICE

333 Hegenberger Road, Suite 511
Oakland, CA 94621

Phone 510-639-4445 Fax 510-639-4449

www.cifstate.org

To: Penny Cunha, Deputy Executive Director
California Chiropractic Association

From: Roger Blake, Assistant Executive Director

Date: February 16, 2004

The purpose of this communication is to advise you and the California Chiropractic Association that on Thursday February 5, 2004 the CIF Executive Committee took no action and does not intend to take any further action regarding CIF By-Law 307. This bylaw requires that a "*medical practitioner*" approve students who participate in athletics prior to participation. The CIF continues to take the position that it is up to the local school/district to make the interpretation of the term "*medical practitioner*" and to decide whether to use a Doctor of Chiropractic to perform athletic physicals and serve as team doctors.

I also want to acknowledge the assistance of your office and that of your general counsel on supplying an opinion, research and historical materials during this process. This assistance was vital and very much appreciated by our office during this review.

Again, thank you and the CCA for all of your assistance and the efforts that your membership makes in serving the student athletes of California.

cc: Marie Ishida, Executive Director

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Mayer Brown LLP
350 South Grand Avenue
25th Floor
Los Angeles, California 90071-1503

Main Tel +1 213 229 9500
Main Fax +1 213 625 0248
www.mayerbrown.com

Philip R. Recht
Direct Tel +1 213 229 9512
Direct Fax +1 213 576 8140
precht@mayerbrown.com

September 17, 2010

Gideon A. Letz, M.D.
Medical Director, State Compensation Insurance Fund
1275 Market Street
San Francisco, CA 94103

Re: Post-Operative Rehabilitation Performed by
Chiropractors

Dear Dr. Letz:

This firm represents the California Chiropractic Association (CCA). It has come to our attention that over the past few weeks, you have instituted a Utilization Review (UR) policy at the State Compensation Insurance Fund (SCIF) that prohibits reimbursement for any post-operative rehabilitation performed by chiropractors, regardless of the circumstances. This policy appears to have been based on two assumptions: 1) that chiropractic scope of practice is limited to spinal manipulations; and 2) that spinal manipulations are never indicated for post-operative rehabilitation.

Both assumptions are erroneous. Regarding the first, SCIF has no authority to define or limit chiropractic scope of practice; rather, that issue is governed by the Chiropractic Initiative Act and regulations promulgated by the California Board of Chiropractic Examiners. Specifically, Section 7 of the Act authorizes all licensed chiropractors "to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body...." Title 16, Division 4, Section 302(a) of the California Code of Regulations further authorizes chiropractors to "manipulate and adjust the spinal column *and other joints of the human body* and in the process thereof....[to] manipulate the muscle and connective tissue related thereto." (Emphasis added.) Section 302(a) also authorizes chiropractors to use "all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments."

The above language makes clear that chiropractors do not just perform spinal manipulations. Among other things, they also perform manipulations and adjustments on *other joints of the body*. The first assumption underlying the new UR policy is thus contradicted by both established practice and regulations duly promulgated by the Board of Chiropractic Examiners.

Gideon A. Letz, M.D.

September 17, 2010

Page 2

The second assumption underlying the new UR policy is equally problematic because it is not based on any objective, evidence-based standards or guidelines in violation of SCIF policy. One of the primary goals of the Utilization Review Program articulated in SCIF's Utilization Review Plan is to ensure that "medical care is consistent with evidence-based practice and meets current peer-reviewed medical standards and guidelines." Yet in this case, no objective, evidence-based standards or guidelines were cited or relied upon. Instead, it appears that a blanket prohibition on reimbursement for post-operative rehabilitation performed by chiropractors was instituted based solely on your personal views concerning the efficacy of chiropractic treatments.

Of course, that is not how UR policy should be developed. Post-operative rehabilitation plans are necessarily dependent on a variety of case-specific factors, such as the type of procedure, presence and type of instrumentation, stage of wound healing, iatrogenic morphological changes and diagnosis. In some cases, these factors may contraindicate manipulative procedures for a period of time. However, that does not justify a blanket prohibition in all cases, regardless of the physician's individual assessment of a patient's need and tolerance. Indeed, persistent pain or complications may in some cases be treated with manipulation as soon as the wound is closed and stitches are removed. Manipulations may also be part of a rehabilitation plan that includes a period of preparatory physical therapy techniques. In these circumstances, Section 302(a) clearly allows chiropractors to perform both the preparatory physical therapy techniques and manipulations.

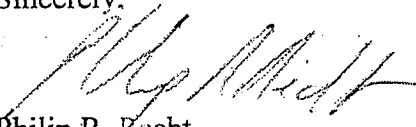
In sum, there is no legal or medical justification for a blanket prohibition on reimbursements for post-operative rehabilitation performed by chiropractors. SCIF's attempt to institute such a blanket prohibition has damaged chiropractors by impeding their ability to practice their profession. Further troubling, it appears that the damage caused by this illegal restraint of trade has been compounded by your decision to divert all UR for post-operative rehabilitation to Medical Consultants who, presumably, will be more willing than Chiropractic Consultants to follow this dictate and deny claims submitted by chiropractors without any actual review of whether the treatments were medically necessary.

We demand that SCIF immediately cease this conduct, retract the policy and send a clarification to all reviewers that claims for post-operative rehabilitation performed by chiropractors should be approved if they meet applicable requirements.

Gideon A. Letz, M.D.
September 17, 2010
Page 3

We look forward to a timely response to this very important matter. In the meantime, nothing herein is intended to constitute a waiver of any of CCA's or its members' legal rights and remedies.

Sincerely,



Philip R. Recht

cc: Tom Rowe, President/CEO, SCIF
Carol Newman, General Counsel, SCIF
Linda Hoban, President/Claims Operations, SCIF
Carrie Nevans, Acting Administrative Director, Division of Workers' Compensation,
California Department of Industrial Relations
Robert Puleo, Executive Officer, California Board of Chiropractic Examiners
Adam M. Cole, General Counsel, California Department of Insurance
James M. Humes, Chief Deputy Attorney General, California Attorney General

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www.chiro.ca.gov**Board of Chiropractic Examiners
Proposed Meeting Schedule
January – December 2011**

January 20, 2011 – Sacramento, California

March 17, 2011 – Los Angeles, California

May 19, 2011 – Sacramento, California

July 21, 2011 – Los Angeles, California

September 15, 2011 – Sacramento, California

November 17, 2011 – Los Angeles, California

* Dates and locations are subject to change

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Hearings Re : Petition for Reinstatement of Revoked License

- A. Kevin Choe
- B. Robert Montoya
- C. Won-Joon Son